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Company: Commissioner for Patents

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From: David H. Jaffer

Phone No: 650.233.4510

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Comments:

Re: Petition for Withdrawal of Premature Final Rejection for U.S. Patent
Application Serial No. 10/646,525

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**TRANSMITTAL FOR
PETITION FOR WITHDRAWAL
OF PREMATURE FINAL REJECTION FOR
U.S. PATENT APPLICATION SERIAL NO. 10/646,525**

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Attorney's Docket 067173-0305340

OCT 23 2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT APPLICATION of:

Confirmation Number: 8919

WILLIAM DANIEL MEISBURGER

Application No.: 10/646,525

Group Art Unit: 2873

Filed: August 21, 2003

Examiner:

For: CONTINUOUS DIRECT-WRITE OPTICAL LITHOGRAPHY

MAIL STOP AF

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

PETITION TRANSMITTAL

Transmitted herewith is a Petition for Withdrawal of Premature Final Rejection for this application.

FEE PAYMENT

Applicant believes no fee is due. However, authorization is hereby made to charge Deposit Account No. 033975 for any fees required by this paper.

Date:

23 October 2006

PILLSBURY WINTHROP SHAW PITTMAN LLP

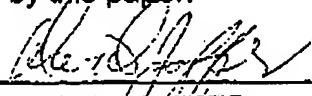
Intellectual Property Group

P. O. Box 10500

Alexandria, VA 22102

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DAVID H. JAFFER

Reg. No. 32243

Customer No. 27498

CERTIFICATION UNDER 37 C.F.R. ss 1.8 and/or 1.10*

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I hereby certify that, on the date shown below, this paper (along with any paper referred to as being attached or enclosed) is being facsimile transmitted to the Patent and Trademark Office, (571) 273-8300.

Date: October 23, 2006
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**PETITION FOR WITHDRAWAL
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Attorney's Docket: 067173-0305340

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Confirmation Number: 8919

William Daniel Meisburger

Application No.: 10/646,525

Group Art Unit: 2873

Filed: August 21, 2003

Examiner: Thomas, Brandi N.

For: CONTINUOUS DIRECT-WRITE OPTICAL LITHOGRAPHY

MAIL STOP AF

Commissioner for Patents

P.O. Box 1450

Alexandria VA 22313-1450

PETITION FOR WITHDRAWAL OF PREMATURE FINAL REJECTION

Hon. Commissioner:

On August 21, 2006, the Office mailed a final rejection in this application. On October 5, 2006, Applicant faxed a request, addressed to both the Examiner and the Primary Examiner, for a telephone interview to discuss the premature final rejection of claims, among other issues. See attachment. Applicant's attorney also left a voicemail message for the Examiner, who has not yet responded. The Examiner's supervisor did respond to a voicemail message. The Primary Examiner then contacted Applicant's attorney on October 20, 2006, but indicated that the final rejection is in the discretion of the Examiner and could not be withdrawn by the Primary Examiner. The Primary Examiner indicated she would ask the Examiner to contact Applicant's attorney today, but no contact has been received today. Therefore, Applicant hereby petitions for withdrawal of the premature final rejection under 37 CFR §1.181(a)(1) and MPEP § 1002.02(c)(3)(a).

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Appl. No. 10/646,525
Petition dated October 23, 2006

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Premature Final Rejection.

The Examiner's final rejection of unamended independent claims 23 and 82, and of claims 24-35, 37-42, 80-81, 83-95 which depend on claims 23 and 82, is based on new grounds and thus is improper under Patent Office procedure. See MPEP §706.07(a). The Examiner has introduced new grounds for rejecting independent claims 23 and 82, and the various dependent claims. The newly cited art is U.S. Patent No. 6,229,649 to Woods et al., which the Examiner cited for the first time in the latest Office Action. These claims are now rejected as unpatentable over Jain et al. in view of Woods et al. The Examiner clearly identifies the rejection to be on new grounds. See paragraph 9 of the Office Action dated August 21, 2006. A final rejection should not have been issued because these claims were not amended in Applicant's response to the previous Office Action, and Applicant did not submit the Woods et al. reference in an Information Disclosure Statement. See MPEP §706.07(a).

Appl. No. 10/646,525
Petition dated October 23, 2006

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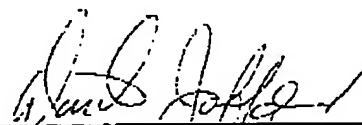
Summary

For the foregoing reasons, it is submitted that the Examiner erred in issuing a final rejection, and reversal of that decision is respectfully requested.

Date: October 23, 2006

Respectfully submitted,

By

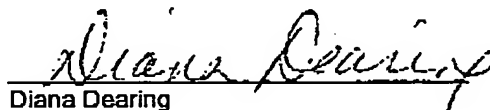


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CERTIFICATE OF FACSIMILE TRANSMISSION

I, Diana Dearing, hereby certify that this Petition for Withdrawal of Premature Final Rejection is being sent via facsimile transmission to fax number (571) 273-8300 to MAIL STOP AF, Commissioner for Patents on October 23, 2006.


Diana Dearing

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**ATTACHMENT TO
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OF PREMATURE FINAL REJECTION FOR
U.S. PATENT APPLICATION SERIAL NO. 10/646,525**

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October 5, 2006

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067173-0305340

VIA FACSIMILE (571/273-8300)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Attn.: Brandi N. Thomas, Examiner, Art Unit 2873
Alicia Harrington, Primary Examiner, Art Unit 2873

Re: U.S. Patent Application Serial No. 10/646,525 for CONTINUOUS
DIRECT-WRITE OPTICAL LITHOGRAPHY

Dear Commissioner:

We request a telephone interview with the Examiner and Primary Examiner for this application. We have reviewed the Office Action mailed August 21, 2006, and believe that the Examiner has not understood our previous response and erred procedurally in the Office Action. The purpose of the interview is to direct the Examiner to our previous response, which highlights the differences between the cited art and the claims in this application, to gain an understanding of why the Examiner believes those arguments do not overcome the cited art, and to address the procedural errors in the Office Action.

Please call me to arrange a convenient interview time. John Macaulay, a consultant for the owner of this application, and I will attend the telephone interview. Any time after 9 A.M. Pacific time on a Friday or after 12:30 P.M. Pacific time on a Wednesday work best for our schedules.

The reasons for requesting the interview are summarized below.

1. The Examiner has not responded to several of Applicant's arguments which traverse the previous rejection of claims.

In paragraph 9 of the Office Action dated August 21, 2006, the Examiner argues that Applicant's arguments with respect to claims 23-25, 37-44, 63-68, and 80-95 have

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been considered but are moot in view of new grounds of rejection. The Examiner is required to address any arguments presented by Applicant which are still relevant to any references being applied. See MPEP §707.07(f). The Examiner failed to address several of Applicant's arguments that are still relevant. In particular, they are the following:

- a. Applicant argued that an obviousness rejection cannot be made with Jain et al. in combination with any other reference for blurring the image. Since Jain et al. teaches away from having a blurred image at the substrate, it is improper to combine Jain et al. with a reference which refers to a blurred image at the substrate. This argument applies to the patentability of all claims currently under consideration. See Applicant's arguments for patentability of independent claim 23 in Applicant's response/amendment filed June 13, 2006.
- b. Applicant argued that the Examiner misinterpreted Takahashi et al. Applicant asserted that Takahashi et al. does not disclose a spatial light modulator and does not disclose projection optics mounted on a stage. These arguments apply to the patentability of claims 38, 39, and 94. See Applicant's arguments for patentability of independent claim 23 and dependent claims 38 and 39 in Applicant's response/amendment filed June 13, 2006.
- c. Applicant argued that the examiner misinterpreted Eggers et al. Applicant asserted that Eggers et al. discloses only a single spatial light modulator and does not disclose particular arrangements of a plurality of spatial light modulators. These arguments apply to the patentability of claims 83-88 and 90-92. See Applicant's arguments for patentability of dependent claims 83, 84, 86-88, and 90-92 in Applicant's response/amendment filed June 13, 2006.

2. Misinterpretation of newly cited art, U.S. Patent No. 6,229,649 to Woods et al.

In the Office Action dated August 21, 2006, the Examiner stated that Woods et al. discloses "imaging optics (10) configured to project a blurred image (12) of said spatial light modulator (32) on said substrate (38)." The Examiner refers to Fig. 1 of Woods et al. The Examiner has misinterpreted Woods et al. Fig. 1 of Woods et al. actually represents the following: A video camera (10) captures a blurred image (12). This video stream of blurred image (12) is fed to and displayed on SLM (32). The rest of the apparatus is designed to remove blur and distortion from the image displayed on the SLM

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Page 3

(32), resulting in an image on an output plane (38) with reduced blur and distortions. The purpose of the invention of Woods et al. is to remove blur, aberrations and distortions from images. The SLMs (32), (22) and (22') are used, respectively, for (1) displaying the image which will be improved, (2) improving the image by phase filtering and (3) improving the image by amplitude filtering. Once again we have a reference that teaches away from blurring the image projected on to the substrate. Furthermore, Woods et al. is a patent in the field of image recovery and is not directly related to lithography. The Examiner provided no motivation for someone of ordinary skill in the art of optical lithography to look to the field of image recovery.

3. Errors in Arguments for Rejection of Claims 88, 90, 91, and 92.

At pages 10-12 of the Office Action dated August 21, 2006, the Examiner presents arguments for rejection of claims 88, 90, 91, and 92. The Examiner cites Takahashi et al. However, it appears from the beginning of the Examiner's description in numbered paragraph 6 on page 9 of the Office Action that the Examiner really means to cite Woods et al. Applicant wishes to confirm that the reference the Examiner intends to combine with Jain et al. in the rejection of these claims is Woods et al.

4. Premature Final Rejection.

The Examiner's final rejection of unamended independent claims 23 and 82, and of claims 24-35, 37-42, 80-81, 83-95 which depend on claims 23 and 82, is based on new grounds and thus is improper under Patent Office procedure. See MPEP §706.07(a). We request reconsideration of the finality of the Office Action.

The Examiner has introduced new grounds for rejecting independent claims 23 and 82, and the various dependent claims. The newly cited art is U.S. Patent No. 6,229,649 to Woods et al., which the Examiner cited for the first time in the latest Office Action. These claims are now rejected as unpatentable over Jain et al. in view of Woods et al. The Examiner clearly identifies the rejection to be on new grounds. See paragraph 9 of the Office Action dated August 21, 2006. A final rejection should not have been issued because these claims were not amended in Applicant's response to the previous Office Action, and Applicant did not submit the Woods et al. reference in an Information Disclosure Statement. See MPEP §706.07(a).

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October 5, 2006
Page 4

Please contact me as soon as possible so that we can arrange a date for the requested telephone interview.

Sincerely,



David H. Jaffer

DHJ:dld